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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,265	08/08/2001	Aleksei Petrovich Kirpichnikov	P67039US0	9442

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EXAMINER

NOLAND, THOMAS

ART UNIT PAPER NUMBER

2856

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

07/890245

Applicant(s)

Kieprchinsu et al

Examiner

Tom McLean

Group Art Unit

2856

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 4/7/07

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-30 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☒ The proposed drawing correction, filed on April 7, 2007 is ☐ approved ☒ disapproved.

☒ The drawing(s) filed on 8/8/2001 is/are objected to by the Examiner

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

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1. The amendment and substitute specification filed April 7, 2003 has been entered.
2. The amendment filed April 7, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Going through an absolute maximum of deviation within the approval process as set forth on page 27, 2nd paragraph does not appear to be set forth in the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 7, 2003 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of box 5 as a laser source. Only a light source is disclosed. The proposed drawing correction is otherwise acceptable
4. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.
5. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

35 U.S.C. 112(2) requires the claim to be specific in what is being claimed. The repeated use of "and/or" as claimed leads to an unacceptable lack of specificity in what is being claimed and unclarity in what limitations apply to what alternative or combination. If applicant wishes to specifically claim a variety of possible alternatives or combinations the appropriate way is to specifically claim each alternative or combination either by a generic limitation that would cover them all or by specific limitations to each of the alternatives or combinations in different claims. The following uses of "and/or" clearly do not meet the requirements for specificity: in claim 1, twice in line 10; in line 13, in line 14; twice in line 16 and line 17; in claim 2, in lines 2, 4-6 and 8; in claim 3, in line 3; in claim 4, in line 3; in claim 5, in lines 2 and 3; in claim 4, in line 3; in claim 5, in lines 2 and 3; in claim 7, in lines 2-4; in claim 8, in lines 3 and 4 in claim 9, in lines 3 and 4; in claim 10, in line 4; in claim 27, in line 4; in claim 28, in line 6 and in claim 3; in line 6. It is unclear what the limitation, "e.g., using results of previous scanning or measurement are chosen as points of control" in claim 5, lines 5-6 is meant to be an example of. I.e., what is the limitation?

6. As best understood.

Claims 1-30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

7. Applicant's arguments filed April 7, 2003 have been fully considered but they are not persuasive. Applicants arguments that the claims are not indefinite because the claims intend to claim the various alternatives and combination has been noted but is not persuasive because such claiming due to the sheer number of alternatives and combinations clearly lacks the required

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specificity. Also it is unclear because of the repeated use of and/or which limitations go with which alternative.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (703) 305-4765. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (703) 305-4705.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

6/22/03
Thomas P. Noland
Primary Examiner
Art Unit 2856



T NOLAND/pj
06/18/03